



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

February 24, 2022

**BY ECF**

The Honorable John P. Cronan  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

**Re:    *United States v. Vicente Otero, 21 Cr. 239 (JPC)***

Dear Judge Cronan:

The Government writes in advance of the *Fatico* hearing currently scheduled for March 3, 2022, at 9:00 a.m., to update the Court that the Government no longer anticipates calling any live witnesses at the hearing. Despite repeated efforts, the Government has been unable to locate the civilian witness it intended to call as a witness at the hearing. The Government instead anticipates requesting that the Court consider evidence in the form of a 911 call placed by the witness, as well body camera footage from law enforcement officers who responded to the scene and interviewed the witness, both of which will be corroborated by surveillance video. *See, e.g., United States v. Weinberg*, 852 F.2d 681, 685 (2d Cir. 1988).

Accordingly, the Government respectfully requests that the Court adjourn the hearing scheduled for March 3. The Government will instead submit its exhibits with its sentencing submission on March 2, 2022, in advance of the sentencing hearing scheduled for March 9, 2022, at 10:00 a.m.

In light of the Government's representation that it no longer intends to call any live witnesses at a *Fatico* hearing, and Defendant's position that a *Fatico* hearing is not necessary because of the absence of disputed factual issues, Dkt. 29 at 2, the *Fatico* hearing scheduled for March 3, 2022 is adjourned sine die. The Government shall submit any exhibits in connection with Defendant's sentencing by March 2, 2022. If, after reviewing the Government's submission, Defendant wishes to submit any additional exhibits, he shall do so by March 7, 2022. Similarly, if Defendant decides that he wishes to call any live witnesses to respond to the Government's submission, he shall so notify the Court by March 7, 2022.

SO ORDERED.

Date: February 24, 2022  
New York, New York

JOHN P. CRONAN  
United States District Judge

Respectfully submitted,

DAMIAN WILLIAMS  
United States Attorney

By: /s/  
Matthew R. Shahabian  
Assistant United States Attorney  
(212) 637-1046

Cc:    Tamara Giwa, Esq. (via ECF)